

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>12/5/2024</u>
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MICHAEL SAUNDERS, *on behalf of himself and  
all others similarly situated*,

Plaintiff,

-against-

SMACKED LLC,

Defendant.

1:24-cv-05479-MKV

**ORDER TO SHOW CAUSE**

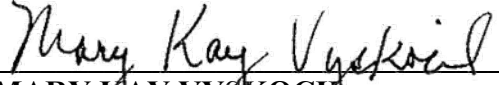
MARY KAY VYSKOCIL, United States District Judge:

Plaintiff initiated this action by filing a complaint on July 19, 2024. [ECF No. 1]. An affidavit of service of summons and complaint was filed on August 14, 2024. [ECF No. 5]. According to that document, Defendant's answer was due by August 22, 2024. [ECF No. 5]. The Court ordered Plaintiff to file a letter showing cause why this case should not be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. [ECF No. 6]. Plaintiff filed a letter requesting leave to move for a Certificate of Default and subsequently for a Default Judgment no later than October 31, 2024. [ECF No. No. 7]. The Court granted such leave. [ECF No. 8]. A Certificate of Default has been entered; [ECF No. 13] however, no motion for default judgment has been filed. Refer to Attachment A to the Individual Rules for Civil Cases for proper default judgment procedure.

Accordingly, it is HEREBY ORDERED that on or before December 19, 2024, Plaintiff shall file a letter showing cause why this case should not be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Plaintiff is on notice that he is ultimately responsible for prosecuting this case, and this case may be dismissed because of his chosen counsel's failure to prosecute the case. *See Link v. Wabash R. Co.*, 370 U.S. 626, 633–34 (1962).

**SO ORDERED.**

**Date: December 5, 2024**  
**New York, NY**

  
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**MARY KAY VYSKOCIL**  
**United States District Judge**